

# **BEFORE THE PUBLIC SERVICE COMMISSION OF THE STATE OF MISSOURI**

In the Matter of a Review of the Missouri Public )  
Service Commission's Standard of Conduct Rules )  
and Conflicts of Interest Policies )

**Case No. AO-2008-0192**

## **NOTICE OF CLARIFICATION – NO FORMAL DEADLINES FOR RESPONSES AND SUGGESTIONS – NO REQUIREMENT FOR FORMAL INTERVENTION REQUESTS IN ORDER TO PARTICIPATE**

Issue Date: December 19, 2007

On December 13, 2007, the Chairman of the Commission opened a workshop docket and set a Roundtable Discussion in this matter. In the notice setting the Roundtable, the Chairman noted that:

In order to facilitate the orderly flow of information during the roundtable, those interested persons, groups and entities wishing to participate in the Roundtable are directed to file any prepared statements, comments, and presentation materials, as well as an estimated amount of time necessary for any presentation, with the Commission under the docket number assigned to this workshop, i.e. AO-2008-0192. All prepared materials should include a summary section providing a concise description of the comments, suggestions, proposals, etc. All prepared materials should also be divided into the following categories: (1) actions the Commission can implement informally; (2) actions requiring formal Commission action, i.e. rulemaking; and (3) recommended statutory changes. All prepared statements, comments, proposals, etc. shall be filed with the Commission no later than January 3, 2008, to allow all participants an opportunity to review them prior to the Roundtable.

On December 17, the Regulatory Law Judge serving as moderator for the Roundtable Discussion issued an additional notice requesting that all of the prepared materials being filed in this workshop case be submitted to the Judge in Microsoft Word format. This

request was issued to assist with the collation of submitted materials for easier review and preparation for the Roundtable.

The target date for these submissions of January 3, 2008, was not intended to be a final and prohibitive deadline, but rather was an attempt to assess what arrangements would be required to facilitate the Roundtable in terms of time required for participant presentations and help coordinate responses between the participants. The Chairman wishes to stress that any interested person, group or entity wishing to participate in the Roundtable, will not be restricted in any way in terms of filing suggestions or responses to other interested entities' suggestions.

Additionally, the Chairman wishes to stress that this is not an adversarial proceeding. This is not a "contested case," meaning a proceeding before the agency in which legal rights, duties or privileges of specific parties are required by law to be determined after hearing.<sup>1</sup> This is a workshop docket opened to receive input regarding the Commission's Standard of Conduct rules, policies and practices and the Conflicts of Interest Statute.

Determination of contested cases involves the Commission's exercise of its judicial power. Workshop cases, such as these, do not constitute contested cases, even if they result in a determination that the Commission will engage in rulemaking. Rulemaking is an exercise of the Commission's legislative power.<sup>2</sup> In contrast to an adjudicatory, trial-type hearing in the nature of that in a contested case, workshop proceedings contemplate that the Commission, or this instance the Chairman, will meet interested members of the public

---

<sup>1</sup> Section 536.010(4), RSMo 2000.

face to face providing an opportunity for comments and presentations.<sup>3</sup>

**To clarify:**

- (1) No interested person, group or entity is required to formally request intervention in this workshop docket in order to participate in the docket or in the Roundtable Discussion.
- (2) Any interested person, group or entity is free to attend the Roundtable, even if those persons, groups or entities do not wish to participate, but only wish to observe.
- (3) Any interested person, group or entity is free to file any materials concerning this workshop docket at any time before, during or after the Roundtable Discussion.
- (4) Materials filed prior to the Roundtable Discussion need not follow any particular format, and may be submitted in brief outline or summary form.
- (5) Any interested person, group or entity is free to participate in the Roundtable Discussion without having pre-filed any comments, statements, suggestions or responses.
- (6) The workshop docket, AO-2008-0192, will be kept open until, at least, January 31, 2008 to receive comments, statements, responses and suggestions. This will allow adequate time for any additional responses to be filed after the Roundtable and these filings may address initial comments and responses that were filed prior to the Roundtable Discussion, as well as any that were presented at the Roundtable Discussion.

---

<sup>2</sup> “The identifying badge of a modern administrative agency is the combination of judicial power (adjudication) with legislative power (rulemaking).” *McNeil-Terry v. Roling*, 142 S.W.3d 828, 835 (Mo. App. 2004).

<sup>3</sup> *State ex rel. Atmos Energy Corp. v. Public Service Com’n of State*, 103 S.W.3d 753, 759-760 (Mo. banc 2003).

(7) Being a workshop docket, and not being an adversarial proceeding, those interested persons, groups or entities that decide to participate in the Roundtable Discussion will not be required to give sworn statements or testimony and will not be subject to cross-examination by any other interested person, group or entity. However, the Chairman may have questions for the participants in order to clarify their positions and may have responses to present with regard to any position or suggestion offered at the Roundtable.

(8) Chairman Davis shall file all communications related to this docket as part of the record in this matter.

It is the Chairman's intention to issue a Report on the workshop docket expeditiously. However, the Chairman may also issue follow-up or supplemental reports depending on the timing of filings in this docket, and if additional matters need to be addressed that were not addressed in the initial Report. Moreover, the Chairman stresses that depending on the responses received and presentations made at the Roundtable Discussion, the Chairman may schedule additional Roundtables or request additional responses and suggestions. The Chairman is committed to full review of the Commission's Standard of Conduct Rules and Conflicts of Interest Statute.

Dated at Jefferson City, Missouri,  
on this 19th day of December, 2007.  
Stearley, Regulatory Law Judge